



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/646,978	09/25/2000	Qinglong Hao	4296	3989

7590

05/08/2003

Anderson Kill & Olick
1251 Avenue of the Americas
New York, NY 10020-1182

EXAMINER

KOSLOW, CAROL M

ART UNIT

PAPER NUMBER

1755

DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/646,978

Applicant(s)

HAO ET AL.

Examiner

C. Melissa Koslow

Art Unit

1755

--Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 23 April 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 10-16.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: See Continuation Sheet


C. Melissa Koslow
Primary Examiner
Art Unit: 1755

Continuation of 3. Applicant's reply has overcome the following rejection(s): the amendment to the specification has overcome the objections over pages 1-3 of the specification, the amendments to the claims have overcome the objections to claims 12 and 13, all the 35 USC 112, first paragraph rejections, and the 35 USC 112, second paragraph rejection over claim 12. The declaration overcomes the objection and rejection over the ratio of the disclosed and phases and the rejection over the format of the formula. The declaration has clarified how examples 1 and 2 can have the same formula but different properties. Thus the objection in lines 18-20 on page 2 of the Final Office action is withdrawn.

Continuation of 5. does NOT place the application in condition for allowance because: The amendment and the declaration do not identify the compositions of samples 1-5 of table 1. Thus this objection is maintained. The amendment and the declaration do not overcome the objection to page 5, lines 6 and 7. While the declaration states the composition has an afterglow time of 80 hours, the wording on this page still implies table 1 shows that the composition has an afterglow of 80 hours. The declaration and the amendment do not provide the individual amounts of Sr, Eu and Dy in either of the phase. Part 4 of the declaration shows that the individual amount affect the afterglow properties of the material and thus they are critical and should be disclosed. Accordingly, the objection to the disclosure and the 35 USC second paragraph rejection over claims 10 and 11 over this issue are maintained. Applicants' arguments with respect to the art rejections have been considered but are not convincing. With respect to the rejection over Royce et al, while the referenc does not explicitly disclose europium oxide, it is clear from reading the reference that the europium source can be any known europium source commonly used in producing aluminate phosphors, such as the oxide, not just the explicitly disclosed oxalate. Hao et al qualifies as art under 102(a), since it was published before the effective filing date of this application, which is 1/27/00. A certified translation has not been provided, thus applicants cannot claim benefit to the 1/28/99 filing date of their Chinese application. In addition the inventorship, and thus the assignment, are identical since the inventive entity of the reference includes Jun Li and Baoshan Lu, who are not inventors of the present application.

Continuation of 10. Other: Attached is the interview summary for the interview of 2/3/03 .